

Conference Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 284

SENATE BILL 1169

AN ACT

AMENDING SECTIONS 11-461, 12-1178 AND 42-1118, ARIZONA REVISED STATUTES;
RELATING TO PERSONAL IDENTIFYING INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-461, Arizona Revised Statutes, is amended to
3 read:

4 11-461. Recording instruments; keeping records; identification;
5 location; social security numbers

6 A. The recorder shall have custody of and shall keep all records, maps
7 and papers deposited in the recorder's office.

8 B. The recorder shall record separately, in typewriting, in a legible
9 hand or by use of photostatic or photographic machines or by a system of
10 microphotography, all instruments or writings required or authorized by law
11 to be recorded. In a like manner, the recorder shall record any other
12 instrument offered for recording provided the instruments meet the
13 requirements of section 11-480.

14 C. The recorder may accept a digitized image of a recordable
15 instrument for recording if it is submitted by a title insurer or title
16 insurance agent as defined in section 20-1562, by a state chartered or
17 federally chartered bank insured by the federal deposit insurance
18 corporation, by an active member of the state bar of Arizona, by an agency,
19 branch or instrumentality of the federal government or by a governmental
20 entity and the instrument from which the digitized image is taken conforms to
21 all applicable laws relating to the recording of paper instruments.

22 D. Instruments shall be recorded consecutively as of the time they are
23 received. The recorder shall affix to each instrument, either by hand or in
24 a digitized form, a notation or notations sufficient to provide:

25 1. A record identification to uniquely identify each instrument and to
26 fix its position within the sequence of recordings.

27 2. A record location to enable each instrument to be retrieved for
28 purposes of inspection.

29 E. Instruments may be recorded in docket books, in separate record
30 books or in suitable containers, if the location of each instrument can be
31 determined from notations both on the instrument and in the appropriate
32 index. Reference to any recorded instrument may be made by the record
33 location without further description.

34 F. Any reference to docket and page, or book and page, or similar
35 indication means the record location as notated on each recorded instrument.

36 G. ON OR BEFORE JANUARY 1, 2009, THE RECORDER IN A COUNTY WITH A
37 POPULATION OF MORE THAN EIGHT HUNDRED THOUSAND PERSONS, SHALL REDACT
38 REFERENCES TO COMPLETE NINE DIGIT SOCIAL SECURITY NUMBERS THAT ARE AVAILABLE
39 ON THE RECORDER'S WEBSITE. SOCIAL SECURITY NUMBERS MAY BE RETAINED ON
40 INSTRUMENTS THAT ARE NOT AVAILABLE ON A WEBSITE. THE RECORDER SHALL ALSO
41 REDACT COMPLETE SOCIAL SECURITY NUMBER REFERENCES ON ALL INSTRUMENTS RECORDED
42 BUT NOT AVAILABLE ON THE WEBSITE BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT
43 TO THIS SECTION, BEFORE MAKING THE INSTRUMENTS AVAILABLE ON THE WEBSITE. THE
44 RECORDER IS NOT LIABLE FOR ANY ERRORS OR CASES OF STOLEN IDENTITY RESULTING
45 FROM REDACTIONS MADE PURSUANT TO THIS SUBSECTION.

1 H. THE RECORDER IN A COUNTY WITH A POPULATION OF LESS THAN EIGHT
2 HUNDRED THOUSAND PERSONS SHALL REDACT REFERENCES TO COMPLETE NINE DIGIT
3 SOCIAL SECURITY NUMBERS ON INSTRUMENTS THAT ARE AVAILABLE ON THE RECORDER'S
4 WEBSITE AT THE REQUEST OF THE HOLDER OF THE SOCIAL SECURITY NUMBER IF THE
5 HOLDER IDENTIFIES THE RECORDED INSTRUMENT. THE RECORDER SHALL ALSO REDACT
6 COMPLETE SOCIAL SECURITY NUMBER REFERENCES ON ALL INSTRUMENTS RECORDED BUT
7 NOT AVAILABLE ON THE WEBSITE BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO
8 THIS SECTION, BEFORE MAKING THE INSTRUMENTS AVAILABLE ON THE WEBSITE. SOCIAL
9 SECURITY NUMBERS MAY BE RETAINED ON INSTRUMENTS THAT ARE NOT AVAILABLE ON THE
10 WEBSITE. THE RECORDER IS NOT LIABLE FOR ANY ERRORS OR CASES OF STOLEN
11 IDENTITY RESULTING FROM REDACTIONS MADE PURSUANT TO THIS SUBSECTION.

12 I. NOTWITHSTANDING THE LIMITATIONS OF SECTION 11-475.01, COUNTY
13 RECORDERS MAY USE MONIES IN THE DOCUMENT STORAGE AND RETRIEVAL CONVERSION AND
14 MAINTENANCE FUND TO ACCOMPLISH THE REQUIREMENTS OF SUBSECTIONS G AND H OF
15 THIS SECTION.

16 Sec. 2. Section 12-1178, Arizona Revised Statutes, is amended to read:

17 12-1178. Judgment; writ of restitution; limitation on issuance

18 A. If the defendant is found guilty, the court shall give judgment for
19 the plaintiff for restitution of the premises, for all charges stated in the
20 rental agreement and for damages, attorney fees, court and other costs and,
21 at the plaintiff's option, ~~for~~ all rent found to be due and unpaid through
22 the periodic rental period, as described in section 33-1314, subsection C, as
23 provided for in the rental agreement, and shall grant a writ of
24 restitution. ~~If the defendant's social security number is contained on the~~
25 ~~complaint at the time of judgment,~~ The person designated by the judge to
26 prepare the judgment shall ensure that the defendant's social security number
27 is NOT contained on the judgment.

28 B. If the defendant is found not guilty, judgment shall be given for
29 the defendant against the plaintiff for damages, attorney fees, ~~AND~~ court
30 and other costs, and if it appears that the plaintiff has acquired possession
31 of the premises since commencement of the action, a writ of restitution shall
32 issue in favor of the defendant.

33 C. No writ of restitution shall issue until the expiration of five
34 calendar days after the rendition of judgment. The writ of restitution shall
35 be enforced as promptly and expeditiously as possible. The issuance or
36 enforcement of a writ of restitution shall not be suspended, delayed, ~~or~~
37 otherwise affected by the filing of a motion to set aside or vacate the
38 judgment or similar motion unless a judge finds good cause.

39 Sec. 3. Section 42-1118, Arizona Revised Statutes, is amended to read:

40 42-1118. Refunds, credits, offsets and abatements

41 A. If the department determines that any amount of tax, penalty or
42 interest has been paid in excess of the amount actually due, the department
43 shall credit the excess amount against any tax administered pursuant to this
44 article, including any penalty or interest owed by the taxpayer. If it is

1 determined that the amount cannot be credited against a tax or installment of
2 taxes due from the taxpayer, the department may:

3 1. Refund the entire amount of tax, interest and penalty, in a lump
4 sum or in not more than five annual installments, to the taxpayer from whom
5 it was collected.

6 2. Issue to the taxpayer a credit voucher for the entire amount of
7 tax, interest and penalty collected, to be carried forward and applied
8 against future tax liabilities until exhausted.

9 3. Refund part, and issue a credit voucher for the balance, of the
10 tax, interest and penalties as provided in paragraphs 1 and 2 of this
11 subsection.

12 B. If the total amount withheld from income under section 43-401
13 exceeds the amount of the tax on the employee's entire taxable income as
14 computed under title 43, the department shall refund the amount of the excess
15 deducted without requiring a filing of a refund claim as provided in this
16 section. The failure of the department to make the refund does not limit the
17 right of the taxpayer to file a claim for a refund pursuant to this section
18 if the claim is not barred under section 42-1106. The department shall not
19 refund amounts less than one dollar unless specifically requested by the
20 taxpayer at the time the return or claim for refund is filed.

21 C. Any overpayment that may result from withholdings or estimates
22 pursuant to section 43-401, 43-581 or 43-582 shall not be credited or
23 refunded unless an Arizona income tax return has been filed for the tax year
24 for which the withholdings or estimates were made.

25 D. The department shall give a vendor who has a duty to collect use
26 tax pursuant to chapter 5, article 4 of this title and who has not collected
27 that tax full credit or offset for any use tax, interest and penalty paid to
28 the department by the purchaser when issuing a determination of a deficiency
29 pursuant to section 42-1108. This credit or offset shall be computed from
30 the date of the use tax payment by the purchaser. If the purchaser has been
31 audited by the department for use tax for the period of the purchase, the
32 purchaser is considered to have paid the use tax to the department. For
33 other purchases, the vendor may submit an affirmation by a purchaser on a
34 form prescribed by the department that use tax was paid on the purchase. A
35 fully completed certificate, taken in good faith by the vendor, constitutes
36 proof that the vendor is entitled to this credit or offset. The department
37 may require a purchaser who has submitted the certificate to establish the
38 accuracy and completeness of the information contained in the certificate.
39 If the purchaser cannot establish the accuracy and completeness of the
40 information, the purchaser is liable for a penalty equal to the amount of tax
41 and interest that would have been paid by the seller and for the additional
42 penalties pursuant to section 42-1125. Payment of the penalty relieves the
43 purchaser of any responsibility for paying the use tax. The department may
44 require this proof and may assess the purchaser within the later of the
45 period of limitations set forth in section 42-1104 or one year from the date

1 the notice of proposed deficiency is issued to the vendor if the purchaser
2 does not establish the accuracy of the information contained in the
3 certificate.

4 E. Each claim for refund shall be filed with the department in writing
5 and shall identify the claimant by name, address and tax identification
6 number. Each claim shall provide the amount of refund requested, the
7 specific tax period involved and the specific grounds on which the claim is
8 founded. Refunds are subject to setoff for debts pursuant to section
9 42-1122.

10 F. A motor vehicle manufacturer that repurchases a vehicle pursuant to
11 section 44-1263 or for reasons of consumer satisfaction may apply for a
12 refund of the taxes paid under chapter 5 of this title if that manufacturer
13 has refunded the amount of tax to the consumer. A refund is allowed under
14 this subsection only if the manufacturer provides satisfactory proof to the
15 department that tax amounts attributed to the sale of the vehicle were
16 collected from the consumer and that the manufacturer refunded an amount of
17 tax to the consumer. Any refund provided under this subsection is in lieu of
18 any refund on the vehicle that the dealer may otherwise be entitled to
19 receive. A manufacturer must apply for a refund under this subsection within
20 four years after repurchasing the vehicle. For the purposes of this
21 subsection:

22 1. "Consumer" has the same meaning prescribed in section 44-1261.

23 2. "Motor vehicle manufacturer" means a corporation engaged in the
24 business of producing passenger cars, trucks and multipurpose PASSENGER
25 vehicles as described in 49 Code of Federal Regulations section 571.3.

26 3. "Satisfactory proof" includes copies of checks and a purchase or
27 lease agreement that lists the vehicle identification number and that
28 itemizes the amount that was collected as tax from the consumer.

29 G. THE DEPARTMENT SHALL NOT IMPRINT THE FULL SOCIAL SECURITY NUMBER OR
30 OTHER TAXPAYER IDENTIFIER USED PURSUANT TO SECTION 42-1105 ON ANY TAXPAYER
31 REFUND CHECK, VOUCHER OR OTHER CREDIT DOCUMENTATION ISSUED TO THE TAXPAYER
32 UNDER THIS SECTION.

33 ~~G.~~ H. If any amount has been erroneously determined to be due from
34 any person but not yet collected, the department shall cancel the amount or
35 amounts on its records.

36 ~~H.~~ I. If, with or after the filing of a protest or an appeal with the
37 department, the state board of tax appeals or the court, a taxpayer pays the
38 tax protested or appealed before the department, board or court acts upon the
39 protest or the appeal, such body shall treat the protest or the appeal as a
40 claim for refund or an appeal from the denial of a claim for refund filed
41 under this section.

APPROVED BY THE GOVERNOR JULY 2, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 2, 2007.